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Socialist Countries in GATT

EAST-WEST TRADE—NEW APPROACHES

The present stage in East-West economic cooperation has reached the point at which four socialist countries have become members of the General Agreement on Tariffs and Trade (GATT) and were thus admitted to the world trade system on the basis of non-discrimination and the most-favored-nation clause. Of those, Poland, Romania and Hungary are also members of the Council for Mutual Economic Aid (CMEA, Comecon) while Yugoslavia—not a formal member—is extensively engaged in the socialist system of economic cooperation.

Trade between socialist and free economy countries has a long history, and foreign trade experts are quite familiar with socialist foreign trade techniques.¹ Free world exporters and importers in a number of countries represent today an impressive business milieu professionally engaged in East-West economic cooperation. It is also true however that East-West trade operations are, compared with world trade volume, relatively insignificant. Even today, the foreign trade policy of the socialist countries seems to be directed at preventing their full integration into the world economic system. The main reason seems to be that the function of foreign trade is primarily to obtain financing for transforming the national economies of these countries into industrial societies, according to programs fixed in their long term economic plans.²

While this remains true today, it is also true that joining GATT was connected with an important change of mind as regards the function of foreign trade in socialist economies. The Communiqué on the 25th session of the CMEA (6 July 1971) stated that:

The session declared that any country that is not a Comecon member can fully or partially participate in the implementation of the measures envisaged by the comprehensive program. The CMEA member countries will continue to develop economic, scientific and technical ties with

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1. Cf. Erwin, "A Selective Bibliography of East-West Commercial Relations," in Grzybowski ed., *East-West Trade* at 292-307 (1973).

2. Grzybowski, *The Socialist Commonwealth of Nations* 85 (1964) and id., "Foreign Trade Policy of the Soviet Union," 1956 *The Polish Review* 97 ff.

the developing countries and the developed capitalist states on the principles of peaceful coexistence, equality, mutual advantage and respect for sovereignty.³

While similar sentiments were expressed before, at this moment this modest statement seems to have acquired new meaning. It seems to be a result of a conviction that further progress, sophistication, and industrial expansion call for closer economic cooperation with the outside world.

By the time the comprehensive program was being considered, the need for at least partial reintegration of Comecon into the world economic system became quite clear. The main pattern for this new approach was generally accepted. The West was to supply the machinery, factory equipment, technology and know-how, and general cooperation in the expansion and modernization of the industrial establishment in the East. The East in exchange was to supply cheap labor and raw materials and to export at least some of the goods and commodities produced in the East.⁴

A Soviet economist writing in early 1973 argued for an extensive program of reintegration:

Obviously, the guaranteeing of security in Europe would make it possible to free substantial material and labor resources and would create conditions for carrying out a number of major all-European projects. At present, the creation of a common power system for Europe by linking the existing power systems of the C.M.E.A. member-countries and the countries of Western Europe, as well as a single system of internal waterways, is technically possible, and the construction of major transcontinental petroleum and gas pipelines and cooperation in the field of environmental protection are feasible. The joint conduct of nuclear and space research, the joint use of nuclear energy for peaceful purposes, the pooling of states' efforts in combating such diseases as cancer, cardiovascular diseases, etc., are also possible. . . .

The C.M.E.A. countries' trade with the industrially developed capitalist countries, which because of the Western powers' policy of prohibitions had been on a low level, at present is one of the most dynamic areas of world trade. In 1960-1970 the average annual growth rates of the socialist countries' exports and imports to the developed capitalist

3. *Pravda*, 30 June 1971. Cf. Chukanov, "Programma sotsialisticheskoi ekonomicheskoi integratsii pretvorajetsia v zhizn," 1972 *Kommunist* no. 13, 27-38.

4. Compare for example Shershnev, 1972 *Ekonomika, Politika, Ideologia* no. 4, 3-14; Alkimov, Arbatov, Inozemtsev, *Izvestia*, 8 May 1973, Spandaryan, *Pravda*, 20 Oct. 1971, Shershnev, *Pravda*, 13 June 1973.

countries were 10.9% and 9.9% respectively, while the growth rate of world trade as a whole was 9.4%. Moreover, in the second half of the 1960s these rates were higher than in the first half. In 1971 the European C.M.E.A. countries' trade turnover with the capitalist states came to \$17,500,000,000.

The overwhelming bulk of the C.M.E.A. countries' trade with the capitalist countries is with Western Europe, but their trade turnover with Japan is growing rapidly. In 1970 exports to Japan had increased by 650% in comparison with 1960 and were almost three times larger than exports to the U.S.A. Japan holds first place (734,000,000 rubles in 1971) in the U.S.S.R.'s trade with the developed capitalist countries.⁵

The argument in favor of extended economic cooperation between the Soviet Union and the West was given full treatment in a subsequent article in *Pravda* that listed three reasons for closer cooperation between the socialist and capitalist systems. In the first place, specialization is the motor of progress, as no country in the world, even the largest, is able to develop all aspects of production. The Soviet Union has large reserves of oil and raw materials, which must not remain idle, and needs investment, equipment and know-how, which are available in the industrial West, provided of course that credits to the USSR can be paid with a part of the goods or materials produced in new enterprises. Finally, cooperation with the capitalist world will assure the flow of foreign currency that will permit raising the standard of living of the Soviet people. In effect, this article argued in favor of the worldwide division of labor, of a world market, and of identity of economic interest in all countries regardless of their social systems. At the same time, the new direction for the program of development and integration of the Comecon area was not adopted without serious soul-searching, particularly since it would require an end to a policy of economic autarchy within Comecon.

A few years later, a study prepared at the Institute of the World Socialist System of the USSR Academy of Science provided a theoretical explanation of the policy of the economic rapprochement to the Western industrial world:

Policy considerations may temporarily deform world economic links, disturb their development, change their direction, however, . . . as history shows, objective economic necessity invariably breaks through most complicated barriers of political obstacles.

5. Voinov, "Ekonomicheskie otnoshenia sotsialisticheskikh stran z razvitiimi kapitalisticheskimi gosudarstvami," 1973 *Planovoe Gosudarstvo* no. 3, 110-120.

In the contemporary world the progress of each country is inseparable from its participation in the world exchange of material and spiritual values reflecting interdependence of all countries. A mass of visible and invisible threads link the economic development of separate countries with those changes which take place in the world economy.⁶

REFORM OF THE FOREIGN TRADE MECHANISM

In order to implement this new policy, an adjustment in trading techniques of Eastern European socialist countries was necessary. The reform could be generally described as change-of-trade techniques in free economy countries, although State foreign trade monopoly was still maintained. Its main features were to involve the producers directly in foreign sales, to make them more competitive and independent of government foreign trade agencies. The extent of change may be best seen when the reformed foreign trade mechanisms in the European members of CMEA are compared with that of the Soviet Union, which with minor changes retained the shape established in the interwar years.

In the Soviet Union, foreign transactions were initially the responsibility of foreign trade delegations, a peculiarly Soviet organization, either attached to or a part of the diplomatic mission accredited to foreign governments abroad. Foreign trade delegations had no personality except that of the State which they represented, and their transactions engaged its financial responsibility. They were given a status in which two elements were combined. Although a part of the diplomatic mission, and therefore enjoying sovereign immunity as a trading agency, foreign trade delegations were subject to local jurisdiction and were responsible for discharging the obligations of the Soviet State with assets under their control.⁷

As an instrument of foreign trade, trade delegations were found to be inadequate. In due course, the Soviet Union began to experiment with new forms of trading organizations which, after some development, have assumed the name of foreign trade associations. These associations are governmental agencies with the status of legal entities subordinate to the Ministry (Commissariat) of Foreign Trade, which issues charters determining their roles in the foreign trade field. Each foreign trade association is responsible for a specific line of products imported or exported abroad. Its directors and higher personnel are appointed by the Minister of Foreign Trade.

Yugoslavia initiated experimentation with different arrange-

6. Shmelev ed., *Ekonomicheskie svyazi Vostok-Zapad*, Institut Ekonomiki Mirovoi Sotsialisticheskoi Sistemy 12-13, 14 (1976).

7. Grzybowski, *Soviet Private International Law* 72 (1965).

ments. In the 1960s other Comecon countries followed suit, seeking credits, investment capital and a greater share of free-economy markets, particularly in manufactured products, machinery, factory equipment and complete industrial plants. The realities of trade, internal problems affecting industrial processes, the drive towards raising the quality and quantity of commodity production and the attractiveness and competitiveness of the goods exported mitigated against total separation of production from trade organizations. As a result, nearly all of the socialist countries of Eastern Europe were forced to modify their foreign trade organizations to de-emphasize the separation of trading agencies from production and to stress direct involvement of the producer in selling his product abroad or buying the kinds of goods (prefabricated goods, machinery, raw materials and equipment) required by his factory or enterprise. Although a wide variety of standardized staples may be disposed of routinely in foreign markets, other forms of foreign trade, such as sales of plants and machinery, fashions and clothing, automotive equipment, electronics, necessitate direct contact between the producer and the sales market.

Currently, the socialist world appears to be split into two groups. China, North Korea, Mongolia, North Vietnam, Cuba, Albania and the Soviet Union itself have retained the original Soviet model of foreign trade organization. Yugoslavia has not only rejected the Soviet model but also restructured the state monopoly of foreign trade. Other Eastern socialist countries have combined the Soviet system of foreign trade monopoly with a new approach to handling foreign trade transactions. Bulgaria holds a special place in that group. While retaining government monopoly over foreign trade, the Bulgarians have abolished specialized agencies and replaced them with producers' unions and combinations of governmental and cooperative organizations responsible both for foreign trade operations and for serving the domestic market. However the number of these unions is quite limited.⁸

Yugoslavia regards foreign trade operations as the responsibility of the association of producers under Art. 4 of the Law of 4 April 1965.⁹ An association of producers is a separate legal entity financially accountable for all its obligations. Foreign trade in Yugoslavia is regulated by the Law of 2 July 1962, amended in 1965 and 1966.¹⁰ Imports and exports are free and may be restricted only by federal legislation. At present, two such restrictions are in force. First, socialist enterprises alone have the right to engage in foreign

8. Jakubowski, *Przedsiębiorstwa w Handlu Międzynarodowym* 34-35 (1972).

9. Law No. 34, *Sluzbeni list Demokratske Federativne Jugoslavije* (Yugoslav Official Gazette) (1965) [hereafter, *Sluzbeni list*].

10. Law No. 245, *Sluzbeni list* (1966).

trade activities. Privately owned industries and enterprises may not trade abroad. Second, enterprises embarking upon foreign trade operations must be of appropriate size, permitting the employment of trained personnel to manage foreign trade transactions. In order to facilitate the creation of such organizations (Yugoslavia is not a country of large companies and corporations), the Law of 12 July 1967¹¹ provides that smaller enterprises may combine to establish trading consortiums and concerns which include economic organizations of other countries. Organizations authorized to participate in foreign trade operations may establish agencies, branches or partnerships with foreign firms abroad as well. The only requirement is registration with the Yugoslavian Ministry of Foreign Trade.¹²

In other socialist countries, the government monopoly, directed exclusively by governmental agencies, remains the primary trading organization. In Poland for example, foreign trade transactions are the responsibility of agencies organized as government enterprises (similar to the Soviet model), cooperative organizations and joint stock companies. In the past the bulk of foreign commercial transactions was handled by government enterprises of the Soviet type; now the emphasis appears to have shifted to direct involvement of producers in foreign trade operations. Recent Polish legislation tends to encourage the formation of new joint stock companies and cooperative organizations in order to organize producers to engage in foreign trade transactions.¹³

The legal status of foreign trade enterprises in Poland is determined by the 1950 decree on government enterprises¹⁴ and the 1964 Civil Code. These enterprises are chartered, organized and staffed by the Ministry of Foreign Trade or by other competent ministries. Their foreign trade operations must conform to the foreign trade regulations, identical for all types of foreign trade organizations as regards the legal capacity to make contracts, licensing of imports and exports and registration with the Polish Chamber of Foreign Trade. Cooperative organizations and their unions are governed by the Law of 17 February 1961,¹⁵ while joint stock companies are regulated by the provisions of the old Commercial Code. These basic provisions afford significant opportunities to adapt the actual organization of foreign trade mechanisms to policy requirements. On 7 December 1966, the Council of Ministers decided to encourage direct

11. Law No. 243, *Sluzbeni list* (1967).

12. Jakubowski, *supra* n. 8 at 54-55, 86.

13. Resolution of the Council of Ministers of 7 Dec. 1966, *Monitor Polski*, no. 69 (1966).

14. *Dziennik Ustaw* (Polish Official Law Gazette), No. 18 (1960) [hereafter *Dziennik Ustaw*].

15. *Dziennik Ustaw*, no. 12 (1961).

involvement of producers in foreign trade operations by permitting broad associations of producers to establish their own foreign trade agencies and by authorizing large government enterprises to handle their own transactions.¹⁶ Normally, in the case of a large company or a government enterprise, a foreign sales or imports department becomes an integral part of the enterprise's operation. Sometimes, smaller firms are encouraged to organize a joint stock company, of which they become stockholders, to handle their foreign trade transactions and represent their interests exclusively. The direct result of this approach is the multiplication of foreign trade organizations. Poland, for instance, has some 100 such agencies, compared to approximately 50 for the Soviet Union. This approach also tends to expand the regulatory functions of the Ministry of Foreign Trade, with an attendant emphasis on aspects of bureaucratic control, as well as directly involving producers in foreign trade transactions.¹⁷

Czechoslovakia is also experimenting with an approach resembling the Polish model, although on a grander scale. The basic organization is a separate foreign trade enterprise directly subordinate to the Foreign Trade Minister. In addition, two new organizational forms have appeared. First, pre-existing foreign trade enterprises representing producers of specific assortments of commodities and goods were made part of larger economic units, organized in the form of trusts or concerns (e.g. Skoda), which handle their products exclusively and are subordinate to competent economic ministries or industrial organizations. The second form enables those foreign trade enterprises to create a type of joint stock company whose shareholders are the organizing producers and firms. The shareholders elect boards of directors and managers, and thus control the operation of the trading agency.¹⁸

The new foreign trade system introduced in the German Democratic Republic typifies the same trend. The East German innovation underscores a tendency present in Eastern Europe toward a higher degree of regional integration in the industrial sector. Currently this reform is well advanced. In addition to foreign trade enterprises, East Germany has introduced other foreign trade structures. In accordance with the provisions of the ordinance of 16 April, 1964,¹⁹ a number of the larger enterprises may be given the

16. *Monitor Polski*, no. 69 (1966). See also Vaganov, *Organizatsiia i tekhnika vneshnej torgovli i drugikh sotsialisticheskikh stran* 24 (1963).

17. Jakubowski, *supra* n. 8 at 29, 33.

18. Kalensky, "Pravni otazky rizeni zahranicniho obhodu clenskich statu RVHP," in *Studie z. Mezinarodniho Prava* 109 (1966). Knapp, "The Function, Organization and Activities of Foreign Trade Corporations in the European Socialist Countries," in *The Sources of the Law of International Trade* 52 (Schmitthoff ed., 1964).

19. 1968 *Recht in der Aussenwirtschaft* 10 (Ministry of Foreign Trade of the G.D.R.).

right of direct participation in foreign trade transactions, a typical example being the Zeiss Corporation. Still another approach, as in Poland and Czechoslovakia, subordinates foreign trade enterprises to branch industrial associations or economic ministries other than the Ministry of Foreign Trade. A fourth device involves the practice of licensing specific enterprises to conclude single deals which either exclusively affect that particular enterprise or, when combined with plenary power to handle a transaction, may require the cooperation of other enterprises and a considerable amount of technical expertise (e.g. plant installation, organization of a system of services, etc.)²⁰

Although the Rumanian system of independent foreign trade enterprises continues to be maintained, it is being supplemented and gradually replaced by associations of enterprises organized as corporate entities and empowered to make contracts with foreign traders. The aim is to give these associations control of foreign trade operations, particularly with respect to exports, thus allowing them to establish direct contacts with foreign clients and explore the needs of a foreign market. In certain situations, major participants in associations are accorded the right to contract abroad. Sometimes a joint foreign trade department has been established to handle the foreign transactions of member enterprises. Certain associations also manage imports, particularly of machinery and factory equipment.²¹

In Hungary, foreign trade rights are allocated to large firms, which for a number of reasons must maintain direct connections with the foreign markets toward which their production is oriented. These firms enjoy a virtual monopoly in their line of production, or collaborate closely with foreign firms, again particularly with enterprises dealing in capital goods and factory equipment. Similar privileges are accorded to firms which, in their manufacturing process, depend upon foreign imports of semi-finished products, parts or raw materials. In addition, import and export firms have been organized to represent smaller enterprises in foreign trade transactions. These firms differ from the foreign trade enterprises of the Soviet type, which they have gradually begun to replace, in that they buy and

20. Schmandra & Treufeldt, "Die Eigengeschaftigkeit der Exportbetriebe als Methode zur Steigerung des Okonomischen Nutzeffekts der Aussenwirtschaftstatigkeit," in 10 *Recht in der Aussenwirtschaft* 82, 83-86 (1968). See Enderslein, *Recht im Aussenhandel* 22 (1969).

21. Directives of the Central Comm. of the Rumanian Communist Party (1967); Florescu, "The Legal Status of Foreign Trade Enterprises—Their Juridical Personality—in the Socialist Republic of Rumania," in *Rechtsfragen der Kooperation zwischen Unternehmen in Ost und West* 48 (1967).

sell on commission rather than on their own account.²²

SOCIALIST MEMBERS OF GATT

There are at present six socialist countries members of GATT: Cuba, Czechoslovakia, Yugoslavia, Poland, Romania and Hungary (Bulgaria has been admitted as observer since 1967). Czechoslovakia was an original member of the international groups which drafted GATT, and Cuba was an original signatory, both prior to their conversion to socialism of the Soviet type. Since their conversion however, their participation in the GATT system is highly limited because they became subject to restrictions imposed on exports to Communist countries.²³ Four others, Yugoslavia, Poland, Romania and Hungary were admitted as a result of negotiations, after accepting special conditions, which differed in each case.

Accession of Yugoslavia to full GATT membership took several stages. In 1950 Yugoslavia was granted observer status.²⁴ On 16 May 1959 Yugoslavia declared that goals and principles of GATT were accepted as a basis for mutual trade relations with the members of GATT, and asked that similar concessions be granted to Yugoslavia reciprocally. On 1 July 1960 Yugoslavia introduced a provisional customs tariff, limited to 127 items.²⁵

In 1961 a permanent tariff schedule covering all items of trade was adopted, and Yugoslavia applied for regular membership in GATT; with the tariff Yugoslavia was able to participate in negotiations for lowering or eliminating tariff barriers to trade. On 13 November 1962 Yugoslavia was provisionally admitted to GATT, and on 5 April 1966 admitted to regular membership.²⁶

Admission of Poland took a different approach. In the Polish case it was clear from the beginning that, while Poland adhered to the general principles of GATT as expressed in the Preamble to the General Agreement, she would not alter her economic system or her technique of foreign trade. The basis of admission was to be provided not by tariff concessions but by a minimal import commitment from the GATT countries. This suggestion was made as early as 1959.²⁷ While this offer was not immediately accepted, the Polish po-

22. Osiatynski & Szilagyi, "Handel zagraniczny w nowym mechanizmie gospodarczym WRL," *Handel Zagraniczny* no. 3 (1968).

23. Reuland, "GATT and State-Trading Countries," 9 *J. World Trade Law* 318 (1975); Grzybowski, "East-West Trade Regulations in the United States, The 1974 Trade Act, Title IV," 11 *J. World Trade Law* 506-07 (1977).

24. GATT/INT/67/240 2 Nov. 1967.

25. Declaration of Association, 16 May 1959, GATT L/986.

26. Accession of Yugoslavia: Report of the Working Party, Basic Instruments and Selected Documents (BISD) 14th Supp. and Protocol of Accession BISD 15th Supp. (1967).

27. GATT Doc. L/1785, L/227 and L/2595.

sition was strengthened when in 1960 the United States granted Poland most-favored-nation treatment, and the Commerce and Consular Rights Treaty (1931) with the United States was confirmed.²⁸

An opportunity for a formal application for admission was offered by the so-called Kennedy Round of negotiations for further trade concessions. In the course of negotiations definite Polish percentage increases in imports from GATT countries were coupled with periodic review of her trade relations within GATT.²⁹ The Protocol of Accession worked out in the negotiations with Poland set the annual increase of imports from GATT members at 7%.³⁰ With this general formula GATT was satisfied. The Protocol of Accession did not rule out variations between increases in trade with individual members of GATT. What was required is that global imports from GATT countries should increase. Whether Poland with her price policies and investment programs can really adhere, not only in letter but also in spirit, to provisions of art. xvii of GATT, is another matter. Art xvii establishes the rule that state trading enterprises shall make transactions "solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation. . . ," thus theoretically excluding other motivations, which seems to contradict the basic tenets of economic planning in a socialist country of the Soviet type.

The annual review obligation seems to indicate that trade increases must be fairly distributed between the member countries. The reviews deal primarily with the direction and composition of Polish foreign trade. Three months before a review the parties may request consultations regarding specific trade problems, including mutual concessions. Parties not satisfied with mutual performance may withdraw concessions under GATT and the Protocol of Accession.³¹

Romania's accession to GATT also was based on the planned increase formula. However it was calculated somewhat differently. The Agreement of Accession signed in 1967 stated that Romania intends ". . . to increase its imports from the contracting parties as a whole at a rate not smaller than the growth of total Romanian imports provided for in its Five Year Plan."³² In exchange, members of GATT agreed to remove quantitative restrictions and grant Romania MFN treatment. Negotiations and consultations on the progress of trade are held every two years.

28. 60 USTS 1609, TIAS no. 1915, cf. *East-West Trade*, supra n. 1 at 138.

29. GATT TN 64/NTB/15 of 27 April 1964.

30. GATT Doc. L/2851 July 1967.

31. Protocol for the Accession of Poland, 30 June 1967, 609 UNTS 236.

32. GATT Doc. L/3557, Accession of Romania 5 August 1971, 807 UNTS 312.

Hungary's accession to GATT was based on conditions resembling those under which Yugoslavia was admitted. Hungary was accepted under the procedures provided for in art. xxxiii of GATT, on terms agreed in separate negotiations. Hungarian application for admission to GATT relied upon a conscious reorganization of the central management of its economic life, which allegedly introduced market relations. Hungary, it was said, adopted the New Economic Mechanism. In addition Hungary adopted a tariff schedule, with two columns: one covering countries with whom Hungary traded on the MFN principle, and the other for non-MFN trade, repeating the Yugoslav reorganization of its foreign trade relations.³³

Hungary claimed that its foreign trade enterprises were able to buy and sell in world markets competitively, that it had no non-tariff barriers to trade, and was ready to grant binding tariff concessions and MFN treatment to its GATT partners in exchange for reciprocal MFN treatment. She further claimed that although the Hungarian government remains the owner of the means of production and the overall economic plan fixes import and export targets for the Hungarian economy, foreign trade agencies and various manufacturing enterprises are free to make contracts in foreign markets, exclusively on the basis of commercial considerations.³⁴

It took four years for a working party, established for that purpose, to work out conditions of Hungarian accession to GATT. One of the important conditions accepted by the working party was the exemption of relations with other socialist countries (members of the CMEA) from the GATT provision on the MFN clause and non-discrimination.³⁵

The Protocols of Accession to GATT for Poland, Romania and Hungary have several common elements. In each the Contracting Parties agreed to reduce gradually all discriminatory quantitative restrictions on imports from the acceding state. The Contracting Parties reserved the right to take discriminatory safeguard action against the acceding state's exports, if those exports cause serious injury to domestic producers (a reservation departing from the provisions of art. xix of GATT which provides for nondiscriminatory emergency action directed against the product, not the country of origin). Accessions provided also for mutual withdrawal of equivalent concessions in the event of a dispute concerning the fulfillment of commitments under the accessions.

33. Reuland, *supra* n. 23 at 329.

34. GATT Doc. W/24/B, 14 Nov. 1967.

35. *Id.*

STATE TRADING AND GATT

Art. xvii of GATT permits state trading, providing that state enterprises ". . . act in a manner consistent with the general principles of non-discriminatory treatment prescribed . . . for governmental measures affecting imports and exports by private traders." In other words, government trading enterprises should conduct their operation exclusively on commercial principles. GATT is aimed at developing world trade by private traders primarily, and socialist countries admitted to GATT are bound to a policy of non-discrimination against private traders.

Concessions to the socialist members represent important departures from the GATT regime. In the first place there is the question of non-discrimination. It applies in trade relations between GATT members, whether socialist or free economy. However it does not necessarily apply in socialist countries to all their trade, because their trade with other socialist countries who are members of CMEA but not members of GATT rests on different principles. With price manipulation, annual trade balances, commitments to import a planned volume of commodities and services, concessions to socialist trade may not meet the conditions of trade with free economy partners. In the Polish and Romanian accession conditions, GATT members were at least assured a share of the markets. The Romanian formula seems a better answer to the modified non-discrimination formula because it guarantees expansion of the Romanian market share at least as large as that of CMEA trade. In the Polish case, the obligation to increase GATT trade has been more than met, as Polish imports from the free world have greatly surpassed the minimum 7%.³⁶

A dubious feature of the Hungarian accession is the forint exchange rate, which is different for West and East trade. For foreign transactions Hungarians use the convertible ruble at 40 forints/ruble, and the U.S. dollar at 60 forints/dollar for GATT trade. Thus, officially, a ruble is rated higher than a dollar. Hungarian rates of exchange may indicate that the ruble is overvalued as compared to the dollar, or it may suggest price manipulation which would make socialist commodities cheaper in Hungary than GATT imported commodities. Since the ruble is not traded in world exchanges it is impossible to test its real value against freely convertible currencies. Differential rates of exchange may also suggest that Hungary is subsidizing her Comecon exports, while there are no subsidies for exports to the GATT markets.³⁷

36. Reuland, *supra* n. 23 at 327.

37. Kostecki, "Hungary and GATT," 8 *J. World Trade Law* 411 (1974). GATT Doc. L/3301 1. 11; Reuland, *supra* n. 23 at 33.

In contrast with the Hungarian practices, Yugoslavia on acceding to GATT devalued her currency from 759 dinars/dollar to 1250 dinars, in order to avoid subsidizing her exports to both the GATT and CMEA markets.³⁸

While it is obvious that double exchange rates are in direct conflict with the principles of GATT, it is also true that the Hungarian practice is only an example of the peculiarities of East-West trade in general. In the socialist economy, formation of prices is not controlled by the market but by the requirements of the plan. This applies as well to trade relations between socialist countries as in trade between socialist and market economy countries. Typical in this respect is the experience of Yugoslavia, which trades with the West (EEC in particular) on GATT terms and maintains trade relations with the CMEA countries on CMEA terms, including long term and annual trade agreements, no different from any other member of the Council.³⁹ In the final analysis therefore, double standards of trade techniques and practices—including currency manipulations—are a permanent feature of socialist trade, in whichever direction it goes.

Indeed, in comparative analysis of foreign trade regimes of the non-market and market economy countries, the central difference between them is the degree of government control over trade transactions. In socialist economies government preferences prevail over consumer choice. In market economies, tariffs express a compromise between one and the other type of preference. Tariffs in socialist economies have little influence on the volume of imports. Tariffs are a non-essential part of the import control system. More efficient methods to regulate the flow of imports are licensing and foreign currency controls. They are practiced in Hungary as well as in other socialist countries. Indeed they are an indispensable instrument in realizing the goals and targets of the economic plan. However unrestrained and competitive Hungarian trade agencies may be in the selection of their trading partners and of the assortment of imported goods, they still need to obtain import licenses and foreign currency allocations. It is clear that these controls are adequate to place the final decision on the conduct and policy of foreign trade in the ministry of foreign trade.

PERSPECTIVES

The accession of socialist countries to GATT is a realistic step,

38. Cf. Woznowski, "The Socialist Countries Membership in the GATT," III *Polish Yearbook of International Law* 210-11 (1970). BISD Supp. XV.

39. Cf. Jovanovic, "Yugoslav Trade With EEC and Comecon Countries," 1972 *East-West Trade* 196-201.

which may eventually bring about their integration into a world trade system. At this moment the volume of trade which follows the channels established by socialist presence in GATT is so insignificant that practically, departures from its system are not important. A Polish analyst claimed that as a result of internal difficulties in GATT the Kennedy round of tariff negotiations was initiated, and that participation of socialist countries resolved an internal crisis which prevented further progress of GATT. Nothing is further from the truth. Only Hungary was admitted under art. XXXIII in the course of the Kennedy round. Furthermore, GATT difficulties, and indeed they were serious, lay in non-tariff barriers existing in the trade among the industrialized countries of the West (Japan included). Socialist markets could offer little to the solution of trade difficulties in that area. Socialist economists may be reassured that they have not contributed to the revitalization of the capitalist trading system, which is able to accommodate economic cooperation between countries with different social structures and varying degrees of economic development.⁴⁰

The importance of the accession of four socialist countries to GATT must be seen in different lights. Certainly it is not important in volume of trade or other aspects of economic cooperation. Its primary meaning is the reaffirmation that these four countries, traditionally a part of Western spiritual and economic reality, are finding their way into the old pattern of coexistence. At the same time it is clear that only a first step has been made. Each case of accession was an independent experiment and only the future will show which method will prove best at liberalizing trade between free economy and socialist countries. Perhaps, in time, it will be possible to reestablish a single trade system, a development of singular importance for the political stability of the world.

It must also be realized that socialist acceptance of the GATT system is limited by the ability to afford economic cooperation with free economy countries. Their basic aim is to develop their economies, stressing the industrial and high technology production which limits the capacity of their markets. As a Soviet author wrote:

To an increasing degree the Socialist countries acquire in the West machinery, factory equipment, patents and technological processes for those sectors of modern industry in which western states, for a number of reasons, have achieved a high level of technological development: chemical and petrochemical industries, special branches of machine construction, computer technology, transportation industry, cellulose-paper industry, food and light indus-

40. Woznowski, *supra* n. 38 at 199 ff.

tries. . . . Economic cooperation with the West also permits solution of the raw materials and supply problems of the socialist countries. A rising standard of living in the socialist countries resulted in recent years in increased imports of mass consumption commodities; however, imports of that category of commodities to the socialist countries are still comparatively low.⁴¹

It is a political question whether this policy is to be encouraged. It may be pointed out however that the framework of GATT allows various levels of participation in the program of free trade. Art. XVIII and XXXVI-XXXVIII of the General Agreement make exceptions for countries whose economic development would be hampered by full liberalization of their foreign trade, and who must follow a protectionist policy in order to develop their industries.

Indeed, GATT seems to provide a framework for trade cooperation of at least three groups of countries: highly industrialized economies, which can meet the challenge of free trade and the international division of labor with no hazard to their living standard; the developing nations, which need assistance, and are unable to reciprocate fully the advantages of admission to GATT on terms of equality; finally, state trading nations that are not able, owing to their social and economic order, to be fully integrated into the world trade mechanism.⁴²

The presence of the latter groups in GATT calls for concessions and adjustments justifiable not in terms of pure trade policies but in terms of political expectations. Can they be less than fully integrated into a world of peace and security is the basic question. Obviously, before these expectations are realized the participation of the socialist countries must become much, much broader.

Economic development and world prosperity are the best guarantee of peace; trade, one of the most important factors in raising the standard of living, responds to a political climate which promotes the sense of security.

A Soviet economist, writing on the future of trade relations between CMEA countries and the European Common Market, underscored the need for trust and cooperation:

Progress in the area of economic cooperation between socialist countries of Europe without doubt depends upon whether leaders of the EEC are willing to adapt this organization to the needs of new Europe—the Europe of trust and

41. Shmelev, *supra* n. 6 at 35.

42. Grzybowski, "Towards Integrated Management of International Trade—the U.S. Trade Act 1974," 1977 *Int. & Comp. L.Q.* 292-293.

cooperation.⁴³

Obviously the implication of these remarks is that the leaders of the West are still distrustful of the Soviet Bloc. One may wish that the writer's remarks were not so one-sided, since it is obvious that Soviet policies leave a good deal to be desired as to promotion of peace and stability. Soviet Bloc political leadership must recognize that trust is a condition related primarily to the conduct of governments in international relations. Obviously it will not result from the use of force and military adventurism exemplified by the presence of Cuban mercenaries in Africa, military interventions in Eastern Europe (Czechoslovakia and Hungary), and Asia (Afghanistan).

43. Shmelev, *supra* n. 6 at 51.